

DOCKET NO: NHH-CV22-5005353-S : **SUPERIOR COURT-
HOUSING SESSION**

JUANA VALLE : **J. D. OF NEW HAVEN**

v. : **AT NEW HAVEN**

CITY OF NEW HAVEN FAIR RENT COMMISSION : **SEPTEMBER 14, 2022**

MOTION TO DISMISS

Pursuant to Practice Book § 10-30, the appellee, Fair Rent Commission of New Haven, respectfully moves to dismiss the appellant Juana Valle's appeal for lack of subject matter jurisdiction. The appellant's claim arises from a summary process action that was filed by her landlord. The appellant, in turn, filed a retaliation complaint with the City of New Haven Fair Rent Commission (FRC), claiming that the summary process action was retaliatory. The FRC issued an order dismissing the retaliation complaint, which is the subject of the current appeal. Since this appeal was commenced, however, the underlying summary process action that was the subject of the retaliation complaint, has been withdrawn, rendering the instant appeal moot. Therefore, this matter should be dismissed as nonjusticiable.

THE APPELLEE
CITY OF NEW HAVEN
FAIR RENT COMMISSION

BY: /s/ 437381
BLAKE T. SULLIVAN
Assistant Corporation Counsel
Its Attorney

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MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS

Pursuant to Practice Book § 10-30, the appellee, Fair Rent Commission of New Haven (FRC), respectfully moves to dismiss the appellant Juana Valle's appeal for lack of subject matter jurisdiction. Since this appeal was commenced, the underlying summary process action, which was the subject of the FRC retaliation complaint, was withdrawn, rendering the retaliation complaint and, in turn, the instant appeal moot. There is no practical relief that the FRC can provide on Ms. Valle's retaliation complaint and no collateral consequence Ms. Valle can claim as an exception to the mootness doctrine. Therefore, this matter should be dismissed as nonjusticiable.

I. BACKGROUND

This appeal concerns a decision of the FRC dismissing the appellant Juana Valle's retaliation complaint. Ms. Valle initially filed a fair rent complaint with the FRC on July 2, 2021. (See Docket No. 100.31, ¶ 1.) On November 9, 2021, before the fair rent complaint could be adjudicated by the FRC, Ms. Valle's landlord, Silverio Lucero, commenced a summary process action against her. (See Case detail for *Silverio Lucero, LLC v. Salvadore Jimenez*, Superior Court Housing Session, judicial district of New Haven, Docket No. NHH-CV21-6014347-S, attached as **Exhibit A**.) On May 16, 2022, Ms. Valle filed a separate retaliation claim with the FRC pursuant to New Haven General

Ordinances § 12 ¾ -11, which provides that under certain circumstances, the FRC can order a landlord to cease and desist from any retaliatory action against the tenant. At the FRC's May 17, 2022 public hearing, the commissioners ordered that retaliation complaint dismissed for lack of subject matter jurisdiction. (See Docket No. 100.31, ¶¶ 3-4.) The appellant filed the instant appeal of the FRC's decision on June 2, 2022.

While this appeal was pending, on July 15, 2022, the summary process action—which formed the basis of Ms. Valle's retaliation complaint—was withdrawn. (See **Exhibit A** at Docket No. 117.) The landlord is no longer taking the retaliatory act that the appellant sought to have the FRC prevent or penalize.

II. Law & Argument

The substantive legal disagreement driving this appeal is whether the FRC properly dismissed Ms. Valle's retaliation complaint for lack of subject matter jurisdiction. However, Ms. Valle's landlord has withdrawn the summary process action that was to be the subject of any cease-and-desist order or related order of the FRC. Setting aside its merits, this appeal should be dismissed because whatever controversy existed regarding the Commission's order of dismissal at the time this appeal was filed, it is now moot and nonjusticiable.

"Mootness is a question of justiciability that must be determined as a threshold matter because it implicates this court's subject matter jurisdiction." *Wendy V. v. Santiago*, 319 Conn. 540, 545, 125 A.3d 983 (2015), as cited in *Renaissance Mgmt. Co. v. Barnes*, 175 Conn. App. 681, 168 A.3d 530 (2017). "Justiciability requires (1) that there be an actual controversy between or among the parties to the dispute . . . (2) that the

interests of the parties be adverse . . . (3) that the matter in controversy be capable of being adjudicated by judicial power . . . and (4) that the determination of the controversy will result in practical relief to the complainant.” (Internal quotation marks omitted). *State v. McElveen*, 261 Conn. 198, 217, 802 A.2d 74 (2002), as cited in *Renaissance Mgmt. Co. v. Barnes*, supra. “An actual controversy must exist not only at the time the appeal is taken, but also throughout the pendency of the appeal. . . . When, during the pendency of an appeal, events have occurred that preclude an appellate court from granting any practical relief through its disposition of the merits, a case has become moot.” (Internal quotation marks omitted.) *In re Emma F.*, 315 Conn. 414, 423–24, 107 A.3d 947 (2015), as cited in *Renaissance Mgmt. Co. v. Barnes*, supra.

The appellant’s retaliation complaint and appeal arose from the then-pending summary process action and sought relief directly as a result of that action. That summary process action was withdrawn on July 15, 2022. (See **Exhibit A**, Docket No. 117.) Even assuming, for the sake of argument, the appellant is successful in this appeal, there is no longer a matter in controversy capable of being adjudicated or which could result in practical relief to the appellant because the objective she sought—that the landlord withdraw the summary process action against her—has been achieved. Moreover, none of the other remedies desired by the appellant are possible:

- There is no action for the FRC direct a cease-and-desist order towards.
- The appellant does not have standing under General Statutes § 7-148f to compel the FRC to issue fines against any party that violates its orders, let alone an order that was never given.

- Finally, the FRC does not have the authority to erase or seal state judicial records filed in connection with this (or any) summary process action, and so is unable to address Ms. Valle's concerns over having a once-pending eviction on her record. (See Appellant's Brief, Docket No. 108 at p.12.)

Ultimately, without a live controversy in the form of the summary process action, there is no action the FRC can take or form of practical relief sufficient to support an exception to the mootness doctrine here. *See, e.g., Renaissance Mgmt. Co., Inc. v. Barnes*, supra, 175 Conn. App. at 690 (appeal of summary process action dismissed as moot where collateral consequences doctrine could not support reasonable possibility of practical relief).

For the foregoing reasons, the appellees respectfully move that this appeal be dismissed for lack of subject matter jurisdiction because the appellant's claims are nonjusticiable and no exception to the mootness doctrine applies.

THE APPELLEE
CITY OF NEW HAVEN
FAIR RENT COMMISSION

BY: /s/ 437381
BLAKE T. SULLIVAN
Assistant Corporation Counsel
Its Attorney

CERTIFICATION

I hereby certify that a copy of the above was mailed or electronically delivered on the 14th day of September, 2022 to all counsel and pro se parties of record and that written consent for electronic delivery was received from all counsel and pro se parties of record who were electronically served.

Amy D. Marx
Daniel C. Burns
New Haven Legal Assistance Association
205 Orange Street
New Haven, CT 06510

/s/ Blake T. Sullivan
Blake T. Sullivan

EXHIBIT A



State of Connecticut Judicial Branch Superior Court Case Look-up



Superior Court Case Look-up
Civil/Family
Housing
Small Claims

NHH-CV21-6014347-S

SILVERIO LUCERO, LLC v. JIMENEZ, SALVADOR Et Al

Prefix: HSG

Case Type: H00

File Date: 11/09/2021

Return Date: 11/18/2021

[Case Detail](#) | [Notices](#) | [History](#) | [Scheduled Court Dates](#) | [E-Services Login](#) | [Screen Section Help](#) ▶

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Attorney/Firm Juris Number Look-up

Case Look-up

By Party Name

By Docket Number

By Attorney/Firm Juris Number

By Property Address

Short Calendar Look-up

By Court Location

By Attorney/Firm Juris Number

Motion to Seal or Close

Calendar Notices

Court Events Look-up

By Date

By Docket Number

By Attorney/Firm Juris Number

Legal Notices

Pending Foreclosure Sales

Understanding

Display of Case Information

Contact Us



Comments

Information Updated as of: 09/12/2022

Case Information

Case Type: H00 - Housing - Summary Process

Court Location: NEW HAVEN HOUSING SESSION

Property Address: 27 Maltby Place, 1st Floor, New Haven, CT 06513

List Type: No List Type

Trial List Claim:

Last Action Date: 07/15/2022 (The "last action date" is the date the information was entered in the system)

Disposition Information

Disposition Date: 07/15/2022


Disposition: WITHDRAWAL OF ACTION

Judge or Magistrate: HON JOHN CIRELLO

Party & Appearance Information


















Party	No Fee Party	Category
P-01 SILVERIO LUCERO, LLC Attorney: LAWRENCE A LEVINSON PC (436664) File Date: 11/09/2021 66 ANDERSON STREET NEW HAVEN, CT 06511		Plaintiff
D-01 SALVADOR JIMENEZ Non-Appearing		Defendant
D-02 GERTRUDIZ JIMENEZ Non-Appearing		Defendant
D-03 VANESSA JIMINEZ Non-Appearing		Defendant
D-04 JUANA VALLE Attorney: AMY DEBORAH MARX (419776) File Date: 11/16/2021 ASSISTANCE ASSOCIATION 205 ORANGE STREET NEW HAVEN, CT 065102018 Attorney: SARAH NAOMI MERVINE (438639) File Date: 03/30/2022 205 ORANGE STREET NEW HAVEN, CT 06510		Defendant
D-05 SANTOS VALLE Non-Appearing		Defendant
D-06 JOHN DOE Non-Appearing		Defendant
D-07 JANE DOE Non-Appearing		Defendant

Viewing Documents on Civil, Housing and Small Claims Cases:

If there is an  in front of the docket number at the top of this page, then the file is electronic (paperless).

- Documents, court orders and judicial notices in electronic (paperless) civil, housing and small claims cases with a return date on or after January 1, 2014 are available publicly over the internet.* For more information on what you can view in all cases, view the [Electronic Access to Court Documents Quick Card](#).
- For civil cases filed prior to 2014, court orders and judicial notices that are electronic are available publicly over the internet. Orders can be viewed by selecting the link to the order from the list below. Notices can be viewed by clicking the **Notices** tab above and selecting the link.*
- Documents, court orders and judicial notices in an electronic (paperless) file can be viewed at any judicial district courthouse during normal business hours.*
- Pleadings or other documents that are not electronic (paperless) can be viewed only during normal business hours at the Clerk's Office in the Judicial District where the case is located.*
- An Affidavit of Debt is not available publicly over the internet on small claims cases filed before October 16, 2017.*

*Any documents protected by law Or by court order that are Not open to the public cannot be viewed by the public online And can only be viewed in person at the clerk's office where the file is located by those authorized by law or court order to see them.

Motions / Pleadings / Documents / Case Status					
Entry No	File Date	Filed By	Description	Arguable	
	11/16/2021	D	APPEARANCE  Appearance		
	03/30/2022	D	APPEARANCE  Appearance		
100.30	11/09/2021	P	HOUSING SUMMARY PROCESS SUMMONS (JD-HM-32) 	No	
100.31	11/09/2021	P	COMPLAINT 	No	
100.32	11/09/2021	P	NOTICE TO QUIT POSSESSION - ORIGINAL SUMMARY PROCESS 	No	
100.33	11/09/2021	P	RETURN OF SERVICE 	No	
100.34	11/09/2021	P	RETURN OF SERVICE 	No	
100.35	11/09/2021	P	CONTINUATION OF PARTIES 	No	
101.00	12/03/2021	P	MOTION FOR JUDGMENT OF DEFAULT FOR FAILURE TO PLEAD AND POSSESSION SUMMARY PROCESS 	No	
102.00	12/03/2021	P	MOTION FOR DEFAULT FOR FAILURE TO APPEAR AND JUDGMENT OF POSSESSION SUMMARY PROCESS 	No	
103.00	12/13/2021	D	MOTION TO DISMISS PB 10-30  Motion to Dismiss and Memorandum of Law in Support of Motion to Dismiss RESULT: Denied 1/27/2022 HON WALTER SPADER	Yes	
103.10	01/27/2022	C	MEMORANDUM OF DECISION ON MOTION  Decision #NH-965 Last Updated: Entry Number - 01/27/2022	No	
104.00	01/19/2022	P	OBJECTION TO MOTION  RESULT: Sustained 1/27/2022 HON WALTER SPADER	No	
104.10	01/27/2022	C	ORDER  RESULT: Sustained 1/27/2022 HON WALTER SPADER	No	
106.00	01/27/2022	C	NOTICE  Notice of DEcision # NH-965	No	
107.00	02/03/2022	P	MOTION FOR JUDGMENT OF DEFAULT FOR FAILURE TO PLEAD AND POSSESSION SUMMARY PROCESS 	No	
108.00	02/10/2022	D	MOTION TO DISMISS PB 10-30  MOTION TO DISMISS MEMORANDUM and AFFIDAVIT IN	Yes	

SUPPORT OF MOTION TO DISMISS RESULT: Denied 4/5/2022 HON JOHN CIRELLO				
108.10	04/05/2022	C	ORDER	No RESULT: Denied 4/5/2022 HON JOHN CIRELLO
109.00	03/14/2022	D	CASEFLOW REQUEST (JD-CV-116)	No RESULT: Granted 3/15/2022 HON JOHN CIRELLO
109.10	03/14/2022	C	ORDER	No RESULT: Granted 3/14/2022 HON JOHN CIRELLO
110.00	04/04/2022	P	OBJECTION TO MOTION Motion to Dismiss (Entry No. 108.00)	No
111.00	04/18/2022	P	MOTION FOR JUDGMENT OF DEFAULT FOR FAILURE TO PLEAD AND POSSESSION SUMMARY PROCESS	No
112.00	04/26/2022	D	ANSWER	No
113.00	04/29/2022	C	ORDER RESULT: Order 4/29/2022 HON JOHN CIRELLO	No
114.00	05/20/2022	D	MOTION TO DISMISS PB 10-30 Motion to Dismiss and Memorand of Law In Support of Motion to Dismiss	Yes
115.00	06/07/2022	D	CASEFLOW REQUEST (JD-CV-116) RESULT: Granted 6/7/2022 HON JOHN CIRELLO	No
115.10	06/07/2022	C	ORDER RESULT: Granted 6/7/2022 HON JOHN CIRELLO	No
116.00	07/01/2022	P	MOTION FOR CONTINUANCE RESULT: Granted 7/1/2022 HON JOHN CIRELLO	No
116.10	07/01/2022	C	ORDER RESULT: Granted 7/1/2022 HON JOHN CIRELLO	No
117.00	07/15/2022	P	WITHDRAWAL OF ACTION	No
117.55	07/15/2022	C	WITHDRAWAL OF ACTION RESULT: HON JOHN CIRELLO	No

Scheduled Court Dates as of 09/09/2022				
NHH-CV21-6014347-S - SILVERIO LUCERO, LLC v. JIMENEZ, SALVADOR Et Al				
#	Date	Time	Event Description	Status
No Events Scheduled				

Judicial ADR events may be heard in a court that is different from the court where the case is filed. To check location information about an ADR event, select the **Notices** tab on the top of the case detail page.

Matters that appear on the Short Calendar are shown as scheduled court events on this page. The date displayed on this page is the date of the calendar.

The status of a Short Calendar matter is not displayed because it is determined by markings made by the parties as required by the calendar notices and the [civil](#) standing orders. Markings made electronically can be viewed by those who have electronic access through the Markings History link on the Civil/Family Menu in E-Services. Markings made by telephone can only be obtained through the clerk's office. If more than one motion is on a single short calendar, the calendar will be listed once on this page. You can see more information on matters appearing on Short Calendars by going to the [Civil/Family Case Look-Up](#) page and [Short Calendars By Juris Number](#) or [By Court Location](#) .

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